

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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RICHARD REX REAN, and Descendants, et  
al., in Pro Se,

Case No. 16-CV-0876 (DWF/SER)

Plaintiff,

REPORT AND RECOMMENDATION

v.

STATE FARM INS. CO.; ALLINA  
MEDICAL TRANSPORT; FAIRVIEW  
HOSPITAL; DOCTOR SPENCER  
BERSHOW, M.D.; MINNESOTA  
DEPARTMENTS OF HEALTH; STATE  
BOARD FOR MEDICAL MALPRACTICE;  
GOVERNOR MARK DAYTON;  
COMMISSIONER OF COMMERCE ET  
AL.; and STATE OF MINNESOTA,

Defendants.

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Plaintiff Richard Rex Rean applied for *in forma pauperis* (“IFP”) status. In an order dated May 11, 2016, this Court noted several deficiencies in Rean’s complaint, including that it was doubtful whether this Court had jurisdiction over the action, and declined to grant the IFP application. *See* ECF No. 9. Rean was given until June 1, 2016 to file an amended complaint stating a claim on which relief may be granted and establishing a basis for the Court’s jurisdiction, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has passed, and Rean has not filed an amended complaint. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has

discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

### **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: June 9, 2016

s/Steven E Rau  
Steven E. Rau  
U.S. Magistrate Judge

### **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.